

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2017

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE M.GOVINDARAJ

Writ Petition No.29048 of 2014
and
M.P.No.1 of 2014

M.Poongkodi

...Petitioner

vs.

1.The Chief Manager
State Bank of India
Thennampalayam Branch
Kamaraj Road
Tiruppur, Pin Code - 641 604

2.M/s.Win Associates
C/o.The Chief Manager
State Bank of India
Thennampalayam Branch
Kamaraj Road, Tiruppur
Pin Code - 641 604

....Respondents

WRIT Petition filed under Article 226 of the Constitution of India, for a writ of Mandamus, directing the respondents not to engage any third degree methods for the collection of outstanding dues from the petitioner and only to follow due process of law as per SARFAESI Act, 2002.

For Petitioner : Mr.P.Kannan Kumar

For Respondents : Mr.P.D.Audikesavalu for R1
Mr.N.C.Ashok Kumar for R2

ORDER

(Delivered by S.MANIKUMAR, J)

Contending inter alia that M/s.Win Associates, Tiruppur, has abused and threatened the writ petitioner/borrower to settle the loan amount, borrower, has sought for a writ of mandamus directing the Chief Manager, State Bank of India, Tiruppur Branch and M/s.Win Associates, respondents 1 and 2, not to

engage any third degree method for the collection of outstanding dues and to follow the due process of law as per SARFAESI Act, 2002.

2. Supporting the prayer sought for, reliance has been made to a decision of the Hon'ble Supreme Court in Appeal (crl.) No.267 of 2007 (Manager, ICICI Bank Ltd vs Prakash Kaur & Ors) and circular of Reserve Bank of India RBI/2007-2008/296 DBOD.No.Leg.BC.75/ 09.07.005/2007-08 dated 24.04.2008.

3. Record of proceedings shows that on 25.11.2014, Notice of Motion has been ordered returnable by two weeks.

4. Mr.P.D.Audikesavalu, learned counsel for the respondent bank submitted that possession notice under Section 13(4) of the SARFAESI Act, 2002, has been issued on 15.10.2011 and paper publication was effected on 11.01.2012. However, he is not in a position to state the further course of action taken by the bank.

5. Mr.N.C.Ashok Kumar, learned counsel appearing for M/s.Win Associates, has no instructions.

6. Though averments made in the supporting affidavit, have not been supported by any material documents, secured creditor/bank is supposed to act only as per the provisions of the Act, governing loan transactions.

In light of the above, we are not inclined to issue a Mandamus, as prayed for. Accordingly, writ petition is dismissed. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

asr

Sub Assistant Registrar

To

The Chief Manager,
State Bank of India,
Thennampalayam Branch,
Kamaraj Road,
Tiruppur-641 604.

+1cc to Mr.Kannan Kumar, Advocate, S.R.No.9322
+1cc to Mr.Adikesavalu, Advocate, S.R.No.9610

PPA(CO)
RS(01/03/2017)

W.P.No.29048 of 2014
and
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